REMARKS

The Office Action mailed February 4, 2009, has been carefully considered and the following is responsive thereto. Claims 29-45 are cancelled herein, and claims 1-28 stand rejected. Applicants respectfully request reconsideration of the outstanding rejections.

At pages 3-4 of the Office Action, the Examiner rejected claims 1-28 under 35 USC § 103 as being unpatentable over Jonsson in view of Guiseley.

The Examiner's position is essentially that Jonsson discloses a food composition in the form of a gel comprising soluble solids in the range of about 50% to about 90 % by weight and a carrageenan component present in an amount sufficient to gel. The Examiner indicates that the gel of the present invention (claiming the viscosity of the carrageenan to be 5 to less than 10 cP) is not disclosed in Jonsson. However, the Examiner asserts that Guiseley discloses the use of carrageenans having the presently claimed viscosity in milk products. Therefore, the Examiner argues that it would have been obvious to combine the teachings of Jonsson with the teachings of Guiseley since both patents disclose carrageenan in the presence of food compositions.

Applicants respectfully traverse the rejection and respectfully request reconsideration thereof. In summary, it is respectfully submitted that the Examiner is misreading the teachings of Guiseley and has not fully responded to Applicant's arguments with respect to this reference.

1. Jonsson Fails to Disclose the Presently Claimed Carrageenan

Jonsson is directed to the stated problem of overcoming the limited solubility of using carrageenan in high solids systems for food compositions. More specifically, the Jonsson invention is directed to food compositions comprising soluble solids in the range of 50% to 70% by weight, at least 70% by weight thereof being a sweetening system comprising sucrose and non-sucrose sweeteners. Jonsson discloses that the use of such a sweetening system surprisingly allows the carrageenan component to be dissolved in a high solids system.

Importantly, Jonsson discloses that "…any carrageenan component, *which will provide the required gelling capability*, may be employed in a food composition according to the present invention" (emphasis added; see col. 6, lines 42-44).

The Examiner admits that Jonsson does not disclose the gel of the present invention having a carrageenan possessing the claimed viscosity. As a result, the Examiner relies on Guiseley.

2. Guiseley *Expressly* Teaches Away from the Use of the Presently Claimed Carrageenan

The Examiner relies on Guiseley as teaching the use of the presently claimed carrageenan having the presently claimed viscosity in the teachings of Jonsson. As noted above, Jonsson teaches that those carrageenans useful therein are those that "will provide the required gelling capability."

However, Applicants again explain that Guiseley discloses the exact opposite. That is, Guiseley discloses that the low molecular weight carrageenan extract of the Guiseley invention is used as a stabilizer for chocolate milk because such carrageenan will *not* lead to gelation. That is, Guiseley states:

> One such performance advantage…of the modified *Euchema Cottonii* extractive of this invention is its ability to provide stabilization of chocolate milk at relatively high use levels without excessive thickening of the product…This characteristic of the modified extractive of this invention is of particular importance in those circumstances where the chocolate milk is subjected to extreme shear stresses during processing, and the dairyman wishes to provide stabilization *without running the risk of gelation*, as is encountered when using a more conventional stabilizer at a high enough level to accommodate for the effects of shear stresses" (see col. 5, lines 29-42; emphasis added).

Therefore, as previously explained, the carrageenan materials of the Guiseley invention are specifically disclosed as being useful therein because *they would NOT lead to gelation.*

As a result, one skilled in the field would NOT have been motivated to use the carrageenans from Guiseley (disclosed to be useful because they would not lead to gelation) in

the teachings in Jonsson (which disclose the use of carrageenans having sufficient gelation in high solids food compositions).

As previously explained, to Applicants' surprise, in high solids carrageenan gels, such as at least 40% solids, the gels and gel films containing reduced molecular weight carrageenans of the present invention result in a highly desirable lowering of the gelling temperature. The gelling temperature is significantly reduced in such gels as shown at pages 7 and 8 of the specification. Lower gelling temperatures of the gels considerably benefits processing of the gels and overcomes problems associated with high gelling temperatures.

Nothing in Jonsson or Guiseley, alone or together, discloses or suggests lowering of the gelling temperatures of homogeneous, thermoreversible gels with a high solids content of at least 40% when using reduced molecular weight carrageenan that has a viscosity of 5 to less than 10 cP when measured in accordance with the present claims.

In view of the foregoing, it is respectfully submitted that claims 1-28 are unobvious and patentable over the combination of Jonsson and Guiseley. Accordingly, withdrawal of this section 103 rejection is respectfully requested.

In view of the above, the present application is believed to be in a condition ready for allowance. Reconsideration of the application is requested and an early Notice of Allowance is earnestly solicited.

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Respectfully submitted,

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